

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION

STEVEN B. TRAINER,

Plaintiff

VS.

B. KEITH JONES, et al.,

Defendants.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**1 : 04-CV-180 (WLS)**

---

**RECOMMENDATION**

By recommendation dated August 6, 2008, the undersigned recommended that the defendants' Motion for Summary Judgment be denied. Despite a court order requiring the defendants to file a substantive motion for summary judgment, the defendants failed to do so. In response to the defendants' motion, the plaintiff filed a cross-motion for summary judgment. To the extent that the undersigned inadvertently failed to address plaintiff's motion in the August 6, 2008, recommendation, this recommendation is issued.

In his cross-motion for summary judgment, the plaintiff sets out his claims and his contentions that the defendants' motions for summary judgment have failed to establish the absence of genuine issues of material fact. The plaintiff goes on to argue that he is entitled to the entry of summary judgment on his claims, based on the failure of the defendants to adequately support their motions for summary judgment and on various aspects of the pleadings and plaintiff's affidavit(s).

As the party moving for summary judgment, the plaintiff has the initial burden to

demonstrate that no genuine issue of material fact remains in this case. Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986); Clark v. Coats & Clark, Inc., 929 F.2d 604 (11th Cir. 1991). Making all factual and credibility determinations in favor of the defendants, the nonmoving parties herein, it is clear that the plaintiff has failed to satisfy his burden of establishing that no genuine issues of material fact remain in this case. Plaintiff's summary judgment motion consists merely of a reiteration of his claims as set out in his complaint, in addition to summary conclusions that the facts as alleged establish the violation of his constitutional rights.

Accordingly, is also the recommendation of the undersigned that the plaintiff's Motion for Summary Judgment be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

**SO RECOMMENDED**, this 9<sup>th</sup> day of December, 2008.

/s/ **Richard L. Hodge**

RICHARD L. HODGE

UNITED STATES MAGISTRATE JUDGE

asb